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60130-1872; 02MRA0412

UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Schonebeck
Serial No.: 10/643,781
Filed: August 19, 2003
Group Art Unit: 3636
Examiner: Salvatore, Lynda
Title: METHOD OF PRODUCING A VEHICLE INTERIOR LINING
AND VEHICLE INTERIOR LINING

M/S After Final
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Dear Sir:

Appellant submits this Appeal Brief pursuant to the Notice of Appeal filed November 23, 2005. Enclosed is a check for the appeal brief fee. Any additional fees or credits may be charged or applied to Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds.

REAL PARTY IN INTEREST

The real party in interest is ArvinMeritor GmbH, assignee of the present invention.

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RELATED APPEALS AND INTERFERENCES

There are no prior or pending appeals, interferences or judicial proceedings related to this appeal, or which may directly affect or may be directly affected by, or have a bearing on, the Board's decision in this appeal.

STATUS OF CLAIMS

Claims 1-22 are pending, rejected, and appealed.

STATUS OF AMENDMENTS

All amendments have been entered.

SUMMARY OF CLAIMED SUBJECT MATTER

The subject invention relates to a vehicle interior lining for a roof as defined in independent claims 1 and 22.

Independent claim 1 recites the following: A vehicle interior lining that includes a decorative layer 10, a barrier layer 12 made of an air-permeable fleece that is arranged on a rear side of the decorative layer 10, and a foam backing 14 that directly adjoins the barrier layer 12. See page 4, lines 11-14. The foam backing 14 is formed via a back foaming process wherein the foam backing 14 is formed by applying a liquid plastic to the barrier layer 12. See page 4, lines 14-16. The barrier layer 12 prevents penetration of the liquid plastic through the barrier layer 12,

and wherein a resulting unit of the barrier layer 12 and the foam backing 14 produced by back foaming is permeable to air after curing. See page 5, lines 6-14.

Independent claim 22 recites the following: A vehicle interior lining that includes a barrier layer 12 made of an air-permeable fleece that prevents penetration of liquid plastic through the barrier layer 12, a decorative layer 10 wherein the barrier layer 12 is arranged on a rear side of the decorative layer 10, and a foam backing 14 that directly adjoins the barrier layer 12 and that is formed via a back foaming process, wherein the foam backing 14 is formed by applying a liquid plastic to the barrier layer 12. See page 4, lines 11-16. The barrier layer prevents penetration of the liquid plastic through the barrier layer, and a resulting unit of the barrier layer and the foam backing is permeable to air after curing. See page 5, lines 6-14. The interior lining also includes at least one spacer 18 having an open cellular structure capable of being infiltrated by a liquid plastic wherein the at least one spacer 18 is attached to the foam backing 14 during the back foaming process. See page 6, lines 5-7 and lines 29-31.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

- A. Claims 1-3, 6, 13, and 16-18 stand rejected under 35 U.S.C . 102 (b) as being anticipated by Burmester et al. (US 4486493).
- B. Claims 1, 2, 6, 13, 17, and 19-21 stand rejected under 35 U.S.C. 102(b) as being anticipated by Volland et al. (US 4618532).

C. Claim 10 stands rejected under 35 U.S.C. 102(b) as being anticipated by, or in the alternative, stands rejected under 35 U.S.C. 103(a) as being unpatentable over Burmester and/or Volland.

D. Claims 11, 12, 14, and 15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Burmester and/or Volland in view of O'Brien et al. (WO 01/26932).

E. Claims 7-9 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Burmester and/or Volland in view of Pelzer et al. (US 6010870).

F. Claims 4-5 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Burmester and/or Volland in view of Marcovecchio (US 2002/0176980).

G. Claim 22 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Burmester and/or Volland in view of O'Brien (WO 01/26932).

ARGUMENT

A. Anticipation Rejection Over Burmester

Claims 1-3, 6, 13, and 16-18 stand rejected under 35 U.S.C. 102 (b) as being anticipated by Burmester et al. (US 4486493).

Claims 1 and 18

Claim 1 is directed to a vehicle interior lining and requires a decorative layer, a barrier layer made of an air-permeable fleece where the barrier layer is arranged on a rear side of the decorative layer, and a foam backing that directly adjoins the barrier layer and that is formed via a back foaming process, wherein the foamed backing is formed by applying a liquid plastic to the

barrier layer with the barrier layer preventing penetration of the liquid plastic through the barrier layer. Burmester does not disclose this combination of features.

First, Burmester does not disclose a vehicle interior lining. Instead, Burmester discloses a seat cushion that has an inner foam core 4, a spring body 1 on top of the foam core 4, a buffer layer 3 on top of the spring body 1, and a seat cover 2 that encloses the entire cushion. While it is well settled that the terms in a claim are to be given their broadest reasonable interpretation, this interpretation must be consistent with the specification, with claim language being read in light of the specification as it would be interpreted by one of ordinary skill in the art. In re Bond, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990). In light of appellant's claims and specification, one of ordinary skill in the art would never consider the Burmester seat cushion as corresponding to the claimed vehicle interior lining.

Second, even if the seat cushion 10 of Burmester can be considered as corresponding to a vehicle interior lining as claimed, the seat cushion does not include all of the claimed features set forth in claim 1.

The examiner argues that the buffer layer 3 of Burmester corresponds to the claimed decorative layer for the vehicle interior lining. Buffer layer 3 simply cannot be considered a decorative layer. The examiner argues that applicant has not specifically claimed a visible decorative layer of a specific type of material with a pattern, embossing, etc., which would distinguish the decorative layer from any other prior art layer.” Appellant respectfully disagrees.

Appellant has claimed a *decorative* layer, i.e. appellant has not merely claimed “a layer.” Buffer layer 3 is not a decorative layer. While the examiner’s interpretation of the prior art can

be broad, the interpretation must also be reasonable. One of ordinary skill in the art would never consider buffer layer 3 as corresponding to the claimed decorative layer. This is especially true as Burmester has a seat cover 2 that is placed over the buffer layer 3, i.e. Burmester already has a clearly identified decorative layer 2.

The examiner has also argued that the spring body 1 of Burmester corresponds to the claimed barrier layer. Appellant respectfully asserts that it is not reasonable to interpret the spring body 1 of Burmester as corresponding to the claimed barrier layer. As clearly set forth in Burmester, the spring body 1 serves as an elastic body in the seat cushion. This spring body 1 cannot serve as a barrier layer because this spring body 1 cannot prevent penetration of the liquid plastic through the spring body 1 as defined in claim 1.

The examiner argues that “it has been held that the recitation that an element is “capable of” performing a function is not a positive limitation but only requires the ability to so perform.” See Advisory Action, page 2, lines 13-14. Claim 1 does not recite that the barrier layer is “capable of” performing a function. Claim 1 positively recites that “the barrier layer prevents penetration of the liquid plastic through the barrier layer.” The spring body 1 of Burmester does not, and cannot, prevent penetration of liquid plastic through the spring body 1.

The spring body 1 of Burmester is made from coarse fibers connected only at the intersection of the fibers, and includes a significant amount of hollow spaces. These hollow spaces make the spring body 1 very compressible as this layer serves as the elastic body of the seat cushion. This layer is highly air permeable, and due to its design is also permeable to liquid

plastic (see col. 2, lines 3-22). Thus, the spring body of Burmester is not capable of preventing penetration of liquid plastic through the spring body.

Finally, claim 1 recites the feature of a foam backing that directly adjoins the barrier layer and that is formed via a back foaming process, wherein the foam backing is formed by applying a liquid plastic to the barrier layer. Burmester does not disclose attachment of a foam backing through a back foaming process as claimed. Burmester discloses taking a pre-formed foam body with subsequent attachment of this body to other seat components. See col. 3, line 56 through col. 4, line 21. In fact, Burmester makes no mention of any type of back foamed layer. As this feature is not found in Burmester, the reference does not anticipate claim 1.

For the many reasons set forth above, Burmester does not anticipate claims 1 and 18, and applicant respectfully requests that the rejection be reversed.

Claim 2

Claim 2 recites that the decorative layer and the barrier layer form an intermediate product, wherein the foam backing is formed on the intermediate product.

The examiner argues that the spring body 1 and the buffer layer 3 form an intermediate product, with the foam layer 4 being formed on the intermediate product. Appellant disagrees with this interpretation of Burmester.

Burmester discloses that the spring body 1 is attached to the top of the foam body 4. This is then impregnated with a bonding agent. Then the buffer layer 3 is applied to the top side of

the spring body 1. See col. 3, line 56 through col. 4, line 21. Thus, the spring body 1 and buffer layer 3 do not form any type of intermediate product, and Burmester cannot anticipate claim 2.

Claim 3

Claim 3 recites that the vehicle interior lining also includes a soft intermediate layer of cellular material disposed between the decorative layer and the barrier layer in the intermediate product.

With regard to claim 3, the examiner argues that the cover 2 in Burmester is interpreted as corresponding to the claimed decorative layer and that the buffer layer 3 is interpreted as corresponding to the claimed soft intermediate layer. This interpretation of Burmester does not meet the limitations of claim 3 in light of claims 1 and 2, from which claim 3 depends.

According to claim 2, the decorative layer and the barrier layer form an intermediate product with the foam backing being formed on the intermediate product. Under the examiner's "revised" interpretation, the seat cover 2 and the spring body 1 would have to form the intermediate product to which a foam backing would then be applied. The formation of such an intermediate product in Burmester would be impossible.

The seat cover 2 is cut and sewn together such that the foam body 4, buffer layer 3, and spring body 1 are enclosed by the cover 2 on all sides. The seat cover 2 cannot be interpreted as forming any part of an intermediate product of the seat cushion as the seat cover 2 is the last layer applied to the seat cushion. The seat cover 2 and spring body 1 are simply not associated with each other in a manner to form any type of intermediate product. Further, under the

examiner's interpretation, the foam body 4 would have to be formed on the intermediate product of the seat cover 2 and spring body 1. Once the seat cover is attached, the foam body 4 is already inside the seat cover. Thus, for the many reasons set forth above, Burmester cannot anticipate claim 3.

Claim 6

Claim 6 recites that the intermediate product is produced by laminating. For this rejection, appellant is assuming that the examiner has returned to the originally presented interpretation of Burmester that the buffer layer 3 corresponds to the claimed decorative layer and the spring body 1 corresponds to the claimed barrier layer. Burmester does not disclose an intermediate product (the barrier layer and the decorative layer) that is produced by laminating.

The examiner argues that this feature is not germane to the final product structure because it is purely a process limitation. Appellant disagrees. Claim 6 recites that the intermediate product is produced by laminating. Thus, the intermediate product is a laminated product. Burmester simply does not disclose such a feature, and therefore Burmester cannot anticipate claim 6.

Claim 13

Claim 13 recites that the liquid plastic is directly applied to the barrier layer and comes into contact with the barrier layer during the back foaming process. Burmester does not disclose

applying liquid plastic directly to the spring body 1 where the liquid plastic contacts the spring body 1 during back foaming.

Again, the examiner argues that this feature is not germane to the final product structure because it is purely a process limitation. Appellant disagrees. Claim 13 recites specific structural components and defines associated contacts between these structural components. This claim language cannot simply be ignored. As Burmester does not disclose the features of claim 13, Burmester cannot anticipate claim 13.

Claim 16

Claim 16 recites that the liquid plastic that is used for back foaming comprises polyurethane. Burmester does not disclose back foaming. Thus, Burmester does not disclose the use of polyurethane applied to the spring body 1 to foam a foam backing as claimed, and Burmester cannot anticipate claim 16.

Claim 17

Claim 17 recites that the decorative layer is a material selected from the group consisting of a textile fabric and an imitation leather. The buffer layer 3, which the examiner argues corresponds to the claimed decorative layer, is not a textile fabric or imitation leather as claimed. Thus, Burmester does not anticipate claim 17.

B. Anticipation Rejection Over Volland

Claims 1, 2, 6, 13, 17, and 19-21 stand rejected under 35 U.S.C. 102(b) as being anticipated by Volland et al. (US 4618532).

Claims 1 and 17

Claim 1 recites a barrier layer made of an air-permeable fleece with the barrier layer preventing penetration of the liquid plastic through the barrier layer, and wherein a resulting unit of the barrier layer and the foam backing produced by back foaming is permeable to air after curing.

First, Volland does not disclose a vehicle interior lining. Instead, Volland discloses a seat cushion. For reasons similar to those set forth above with regard to Burmester, one of ordinary skill in the art would never consider the Volland seat cushion as corresponding to the claimed vehicle interior lining.

Second, even if the seat cushion of Volland can be considered as corresponding to a vehicle interior lining as claimed, the seat cushion does not include all of the claimed features set forth in claim 1.

Volland discloses a seat cushion having a foam core 1 surrounded by a multi-layer covering 2, which is fixed to a bottom side of the foam core 1. The multi-layer covering 2 includes an outermost layer of a textile material that serves as a visible seat cover portion. Laminated to a rear side of this textile layer is a barrier layer including a film of polyurethane foam, which is permeable to air, and a layer of foam and air impermeable material that is either a

thin piece of paper or a coating. This foam and air impermeable layer acts as a barrier to the penetration of liquid plastic that is used during back foaming to form the foam core 1. Thus, the material to form the barrier layer in Volland is not air permeable.

Only when the foam has been cured, or when the paper layer is sufficiently destroyed by a mechanical process of needle punching and flexing the seat, is air permeability provided for the seat cushion. Appellant's invention, as defined in claim 1 is clearly different than that disclosed in Volland. Appellant's invention provides air permeability from the onset by using a barrier layer made from air-permeable fleece. No additional steps need be taken to make the barrier layer air permeable. Volland simply does not disclose the use of a barrier layer of air-permeable fleece as set forth in claim 1.

The examiner argues that Volland discloses an outermost layer 2 that corresponds to the claimed decorative layer and that a bonded fabric corresponds to the claimed barrier layer, referring to col. 3, lines 40-46. This section of Volland states that the covering is comprised of several layers with an outermost layer formed by a textile, elastic covering material. "A bonded fabric or sheet of foam is frequently laminated onto that layer." Col. 3, lines 45-46. Thus, Volland discloses the inclusion of an optional layer of fabric or foam. This layer is used to provide improved moisture dissipation. Volland further recites "foam-impermeable films may be fixed to the covering by bonding, flame lamination, welding, etc." Col. 3, lines 49-51. "After the foam core has reacted to completion, the permeability to air of the sealing layer frequently has to be increased or actually created. This may be done mechanically by need punching, flexing, compressing, or knocking." Col. 3, lines 55-59.

Thus, in every embodiment of Volland, the “barrier layer” is a foam-impermeable film/paper (see col. 3, line 49 through col. 4, lines 5; and col. 4, lines 62-63), that is capable of being dissolved, and is not a fleece as defined in claim 1. This is further exemplified by the language of claim 1, “(b) a foam-impermeable sealing layer which covers said foam core and which is selected from the group consisting of paper, paper-like products, and films which are capable of being dissolved . . .” Col. 6, lines 25-28.

Again, while the examiner’s interpretation of the prior art can be broad, the interpretation must also be reasonable. One of ordinary skill in the art would never consider the optional bonded fabric layer as corresponding to the claimed barrier layer because Volland discloses the use of a specific type of barrier layer. Volland clearly discloses the use of a dissolvable film layer as the “barrier layer.” Thus, there is no disclosure in Volland of a barrier layer comprised of an air permeable fleece as claimed, and Volland therefore cannot anticipate claims 1 and 17.

Claim 2

Claim 2 recites that the decorative layer and the barrier layer form an intermediate product, with the foam backing being formed on the intermediate product. Volland does not disclose the formation an intermediate product as claimed. Further, the barrier layer of Volland is a dissolvable film and thus the foam backing cannot be formed on an intermediate product as claimed. Thus, Volland cannot anticipate claim 2.

Claim 6

Claim 6 recites that the intermediate product is produced by laminating. Volland does not disclose an intermediate product as defined in the claims. Volland certainly does not disclose the claimed intermediate product being produced by laminating. For the reasons set forth above, the bonded fabric cannot be considered as corresponding to the claimed barrier layer. The barrier layer of Volland, i.e. the dissolvable film, is not laminated to the cover. Thus, Volland does not anticipate claim 6.

Claim 13

Claim 13 recites that the liquid plastic is directly applied to the barrier layer and comes into contact with the barrier layer during the back foaming process. The examiner argues that this feature is not germane to the final product structure because it is purely a process limitation. Appellant disagrees. Claim 13 recites specific structural components and defines associated contacts between these structural components. This claim language cannot simply be ignored. Thus, appellant respectfully asserts that Volland does not anticipate claim 13.

Claim 19

Claim 19 recites the feature of at least one of a spacer and a fastening member in the foam backing, wherein the at least one of the spacer and the fastening member are attached during the back foaming process.

The examiner argues that Volland discloses straps 5 that are joined to the foam core during foaming. To ensure that the covering is closely adapted to the core 1, even in the presence of concave curves, the straps 5 are provided in the vicinity of the seat surface 4 and are stitched to the covering and joined to the core 1 during foaming. See col. 4, lines 42-47. These straps are not spacers and are not fastening members. Further, one of ordinary skill in the art would not consider the straps as corresponding to the claimed spacers and fastening members. Thus, Volland does not anticipate claim 19.

Claim 20

Claim 20 recites that the decorative layer, barrier layer, and foam backing cooperate to form a roof liner. The seat cushion of Volland is not a roof liner. Further, there is nothing in Volland to suggest that the seat cushion would be suitable for a roof liner. As Volland does not disclose a roof liner, Volland cannot anticipate claim 20.

Claim 21

Claim 21 recites that the air-permeable fleece prevents penetration of liquid plastic through the barrier layer. Volland does not disclose the use of a barrier layer comprised of an air-permeable fleece that prevents penetration of liquid plastic through the barrier layer. Thus, Volland does not anticipate claim 21.

C. Anticipation/Obviousness Over Burmester and/or Volland

Claim 10 stands rejected under 35 102(b) as being anticipated by, or in the alternative, stands rejected under 35 U.S.C. 103(a) as being unpatentable over Burmester and/or Volland.

For the reasons set forth above neither Burmester nor Volland disclose, suggest, or teach the claimed invention. Further, claim 10 recites that the air-permeable fleece that is used as the barrier layer has an air permeability of about 55 to 120 liters per 100 cm².

The spring body 1 of Burmester, which the examiner argues corresponds to the claimed barrier layer is formed from a coarse material including PES and CV fibers. This layer is highly air permeable and does not satisfy the permeability requirements set forth in claim 10.

Volland does not disclose the use of a barrier layer comprised of an air-permeable fleece. Thus, Volland cannot disclose an air-permeable fleece having the properties set forth in claim 10. Appellant respectfully requests that the rejection of claim 10 be reversed.

D. Obviousness Rejection Over Burmester and/or Volland in view of O'Brien

Claims 11, 12, 14, and 15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Burmester and/or Volland in view of O'Brien et al. (WO 01/26932).

Claim 11

Claim 11 recites a fiber mat attached to a rear side of the foam backing during the back foaming process. Claim 1 recites that the foam backing directly adjoins the barrier layer. Thus,

claim 11 requires a barrier layer on one side of the foam backing and a fiber mat attached on the other side. None of the references disclose this combination of features.

The examiner argues that O'Brien discloses the use of a fiber mat that is attached to the foam backing 10. However, this fiber mat 12 is not attached to a rear side of the foam backing as claimed. Further, O'Brien discloses positioning the mat 12 between the foam backing and the barrier layer 28. Thus, the mat 12 and barrier layer 28 are positioned on the same side of the foam backing 10.

The examiner further argues that, motivated by the desire to provide a reinforced cushioning element, it would have been obvious to provide the foam layers taught by Burmester or Volland with the fiberglass mat 12 taught by O'Brien. Appellant disagrees and asserts that there is no motivation or suggestion to modify either Burmester or Volland in the manner suggested by the examiner.

O'Brien is directed to a vehicle trim panel that eliminates void defects resulting from air bubbles occurring in the urethane foam during foaming. The identified problem refers to known molding problems resulting from traditional manufacturing processes for vehicle trim panels. Both Burmester and Volland are directed to the formation of seat cushions. Seat cushions are very different from vehicle trim panels. The examiner argues that there is a desire to reinforce the seat cushion, but there is no evidence to support the examiner's position that the inclusion of the fiberglass mat of the trim panel of O'Brien would be beneficial for a seat cushion.

There is nothing in Volland or Burmester that would have led one of ordinary skill in the art to believe that Volland's or Burmester's seat cushion was in any way deficient for Volland's

or Burmester's purposes or was in need of modification. Further, the inclusion of an additional fiberglass mat in Volland or Burmester would seem to detract from seat comfort provided by the configurations set forth in Volland and Burmester. One of ordinary skill in the art would have found no reason, suggestion, or incentive for attempting to combine these references so as to arrive at the subject matter of claim 11 other than through the luxury of hindsight accorded one who first viewed appellant's disclosure. Thus, appellant respectfully requests that the rejection of claim 11 be reversed.

Claim 12

Claim 12 recites a fiber mat that is embedded in the foam backing during the back foaming process. For the reasons set forth above, there is no motivation or suggestion to modify either Burmester or Volland with the teachings of O'Brien. Further, O'Brien does not disclose the features of claim 12. As shown in Figure 1, the fiber mat 12 is clearly not embedded in the foam backing 10. Thus, appellant respectfully requests that the rejection of claim 12 be reversed.

Claim 14

Claim 14 recites fibers that are introduced into the liquid plastic during the back foaming process, wherein the fibers are distributed in the foam backing. For the reasons set forth above, there is no motivation or suggestion to modify either Burmester or Volland with the teachings of O'Brien. Further, O'Brien does not disclose the features of claim 14.

O'Brien discloses taking a separate fiberglass mat 12 and a separate foam backing 10, which are then sprayed with urethane to form a urethane foam. There is no disclosure of fibers that are introduced into the liquid plastic during back foaming. Further, the examiner has argued that this feature is not germane to the final product structure because it is purely a process limitation. Appellant disagrees. Claim 14 positively recites that fibers are distributed in the foam backing. O'Brien clearly does not teach the distribution of fibers in the foam backing 10, see Figures 1 and 2. Thus, appellant respectfully requests that the rejection of claim 14 be reversed.

Claim 15

Claim 15 recites that the fibers are glass fibers. For the reasons set forth above, there is no motivation or suggestion to modify either Burmester or Volland with the teachings of O'Brien. Further, O'Brien does not disclose the features of claim 15. As O'Brien does not disclose the use of any type of fibers that are distributed in the foam backing, O'Brien certainly does not disclose distributing glass fibers in the foam backing. Thus, appellant respectfully requests that the rejection of claim 15 be reversed.

E. Obviousness Rejection Over Burmester and/or Volland in view of Pelzer

Claims 7-9 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Burmester and/or Volland in view of Pelzer et al. (US 6010870).

Claims 7-8

Claim 7 recites that the air-permeable fleece comprises a plurality of cellulose fibers that are bonded to each other by a binding agent. The examiner argues that Pelzer discloses a non-woven fleece composite material that includes natural fibers such as cotton and sisal. Further, the examiner argues that, motivated by the desire to provide a barrier layer that is biodegradable, it would have been obvious to form the foam composites of Volland and Burmester with the fleece of Pelzer. Appellant disagrees.

There is absolutely no disclosure in Pelzer of using a non-woven fleece composite material as a barrier layer for a vehicle interior lining. Pelzer does disclose that non-woven fleece materials can be used to control acoustic properties and strength of the composite material, but there is no suggestion that this type of material is suitable for a barrier layer as claimed. Further, there is nothing to suggest in either Burmester or Volland that their respective “barrier layers” are not already biodegradable. Thus, appellant respectfully asserts that the rejection of claims 7-8 under 35 U.S.C. 103(a) is improper, and requests that the rejection be reversed.

Claim 9

Claim 9 recites the air-permeable fleece used as the barrier layer has a gsm substance of 50 to 200 g/m². For the reasons set forth above, there is no motivation or suggestion to modify Burmester or Volland with the teachings of Pelzer. Further, the examiner admits that none of the references disclose the feature of claim 9. The examiner argues that it would be suitable to form

the barrier layer with a suitable basis weight as a function of desired end use. Appellant disagrees.

None of the references disclose the use of a barrier layer formed from an air permeable fleece as claimed. The use of the air permeable fleece as the barrier layer uniquely provides air permeability throughout the formation of the vehicle interior lining. The recited properties of the air permeable fleece provide this unique feature. Further, there is no disclosure in Pelzer that the non-woven material is suitable for a barrier layer as defined in the claims. Thus, appellant requests that the rejection of claim 9 be reversed.

F. Obviousness Rejection Over Burmester and/or Volland in view of Marcovecchio

Claims 4-5 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Burmester and/or Volland in view of Marcovecchio (US 2002/0176980). Claim 4 recites that at least two layers of the intermediate product are bonded to each other by gluing. Marcovecchio does not disclose the use of two layers of intermediate product as claimed. The examiner relies on Marcovecchio to disclose gluing layers together with glue, but none of the recited references disclose using multiple layers of intermediate product. Thus, appellant respectfully asserts that the rejection is improper, and requests that the rejection of claims 4-5 be reversed.

G. Obviousness Rejection Over Burmester and/or Volland in view of O'Brien

Claim 22 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Burmester and/or Volland in view of O'Brien (WO 01/26932). For the reasons set forth above neither

Burmester nor Volland disclose, suggest, or teach the claimed invention. O'Brien does not make up for the deficiencies of Burmester or Volland.

Further, claim 22 recites at least one spacer having an open cellular structure capable of being infiltrated by a liquid plastic wherein the at least one spacer is attached to the foam backing during the back foaming process. O'Brien discloses only the use of fiber glass mats and does not disclose the use of a spacer as claimed. Further, appellant respectfully asserts that it is not reasonable to interpret the mats of O'Brien as corresponding to the spacer as defined in claim 22. There is no disclosure in O'Brien of a spacer having an open cellular structure as claimed, and which is capable of being infiltrated by liquid plastic during a back foaming process.

The examiner argues that, motivated by the desire to provide a reinforced cushioning element, it would have been obvious to provide the foam layers taught by Burmester or Volland with the fiberglass mat 12 taught by O'Brien. Appellant disagrees and asserts that there is no motivation or suggestion to modify either Burmester or Volland in the manner suggested by the examiner.

First, the claimed spacer is not used for reinforcement but is instead used to maintain a desired spacing between a fiberglass mat and the barrier layer. Second, O'Brien is directed to a vehicle trim panel that eliminates void defects resulting from air bubbles occurring in the urethane foam during foaming. The identified problem refers to known molding problems resulting from traditional manufacturing processes for vehicle trim panels. Both Burmester and Volland are directed to the formation of seat cushions. Seat cushions are very different from vehicle trim panels. The examiner argues that there is a desire to reinforce the seat cushion, but

there is no evidence to support the examiner's position that the inclusion of the fiberglass mat of the trim panel of O'Brien would be beneficial for seat cushions.

There is nothing in Volland or Burmester that would have led one of ordinary skill in the art to believe that Volland's or Burmester's seat cushion was in any way deficient for Volland's or Burmester's purposes or was in need of modification. Further, the inclusion of an additional fiberglass mat in Volland or Burmester would seem to detract from seat comfort provided by the configurations set forth in Volland and Burmester. One of ordinary skill in the art would have found no reason, suggestion, or incentive for attempting to combine these references so as to arrive at the subject matter of claim 22 other than through the luxury of hindsight accorded one who first viewed appellant's disclosure. Thus, appellant respectfully requests that the rejection of claim 22 be reversed.

CONCLUSION

For the reasons set forth above, the rejection of all claims is improper and should be reversed. Appellant earnestly requests such an action.

Respectfully submitted,

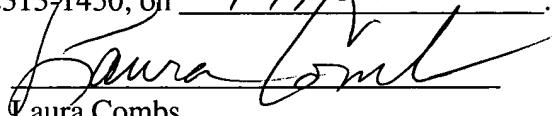
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Dated: 1-17-06

CERTIFICATE OF MAIL

I hereby certify that the enclosed Appeal Brief is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on 1-17-06.


Laura Combs



60130-1872; 02MRA0412

CLAIMS APPENDIX

1. A vehicle interior lining, comprising;
 - a barrier layer made of an air-permeable fleece;
 - a decorative layer, wherein the barrier layer is arranged on a rear side of the decorative layer; and
 - a foam backing that directly adjoins the barrier layer and that is formed via a back foaming process, wherein the foam backing is formed by applying a liquid plastic to the barrier layer,
 - wherein the barrier layer prevents penetration of the liquid plastic through the barrier layer, and wherein a resulting unit of the barrier layer and the foam backing produced by back foaming is permeable to air after curing.
2. The vehicle interior lining according to claim 1, wherein the decorative layer and the barrier layer form an intermediate product, and wherein the foam backing is formed on the intermediate product.
3. The vehicle interior lining according to claim 2, further comprising a soft intermediate layer of cellular material disposed between the decorative layer and the barrier layer in the intermediate product.
4. The vehicle interior lining according to claim 2, wherein at least two layers of the intermediate product are bonded to each other by gluing.

5. The vehicle interior lining according to claim 4, wherein a thermoplastic, pulverulent glue is applied to at least one layer to bond the at least two layers of the intermediate product.
6. The vehicle interior lining according to claim 2, wherein the intermediate product is produced by laminating.
7. The vehicle interior lining according to claim 1, wherein the air-permeable fleece comprises a plurality of cellulose fibers that are bonded to each other by a binding agent.
8. The vehicle interior lining according to claim 7, wherein the plurality of cellulose fibers are sisal fibers.
9. The vehicle interior lining according to claim 1, wherein the air-permeable fleece used as the barrier layer has a gsm substance of 50 to 200 g/m².
10. The vehicle interior lining according to claim 1, wherein the air-permeable fleece used as the barrier layer has an air permeability of about 55 to 120 l per 100 cm².
11. The vehicle interior lining according to claim 1, further comprising a fiber mat attached to the rear side of the foam backing during the back foaming process.
12. The vehicle interior lining according to claim 1, further comprising a fiber mat embedded in the foam backing during the back foaming process.

13. The vehicle interior lining according to claim 1, wherein the liquid plastic is directly applied to the barrier layer and comes into contact with the barrier layer during the back foaming process.
14. The vehicle interior lining according to claim 1, further comprising fibers that are introduced into the liquid plastic during the back foaming process, wherein the fibers are distributed in the foam backing.
15. The vehicle interior lining according to claim 14, wherein the fibers are glass fibers.
16. The vehicle interior lining according to claim 1, wherein the liquid plastic used for back foaming comprises polyurethane.
17. The vehicle interior lining according to claim 1, wherein the decorative layer is a material selected from the group consisting of a textile fabric and an imitation leather.
18. The vehicle interior lining according to claim 1, wherein the entire vehicle interior lining is permeable to air.
19. The vehicle interior lining according to claim 1, further comprising at least one of a spacer and a fastening member in the foam backing , wherein the at least one of the spacer and the fastening member are attached during the back foaming process.

20. The vehicle interior lining according to claim 1 wherein the decorative layer, barrier layer, and foam backing cooperate to form a roof liner.

21. The vehicle interior lining according to claim 1 wherein the air-permeable fleece prevents penetration of liquid plastic through the barrier layer.

22. A vehicle interior lining, comprising;

a barrier layer made of an air-permeable fleece that prevents penetration of liquid plastic through the barrier layer;

a decorative layer, wherein the barrier layer is arranged on a rear side of the decorative layer;

a foam backing that directly adjoins the barrier layer and that is formed via a back foaming process, wherein the foam backing is formed by applying a liquid plastic to the barrier layer,

wherein the barrier layer prevents penetration of the liquid plastic through the barrier layer, and wherein a resulting unit of the barrier layer and the foam backing is permeable to air after curing; and

at least one spacer having an open cellular structure capable of being infiltrated by a liquid plastic wherein the at least one spacer is attached to the foam backing during the back foaming process.

EVIDENCE APPENDIX

None

RELATED PROCEEDINGS APPENDIX

None